



WISCONSIN REGULATORY DIGEST

A Publication of the
MEDICAL EXAMINING BOARD

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Board Member News

Lief W. Erickson, Jr., M.D., has been appointed by Governor Scott McCallum to serve as a professional member on the Medical Examining Board. Dr. Erickson is a Board Certified General Surgeon, and has been in practice at the Burlington Clinic (affiliated with Aurora Medical Group) since 1979. A native of Burlington, his father has been a family practitioner there since 1950. He graduated from the University of Wisconsin in 1970 and the Medical College of Wisconsin in 1974. His surgical residency was done at the Medical College of Wisconsin affiliated hospitals and was completed in 1979. For the past 15 years, Dr. Erickson has been involved in clinic administration, including a term as Clinic President, and for the past 5 years he has served as President of the South Region of Aurora Health Care.

MEDICAL EXAMINING BOARD

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Message from the Chair, *Darold Treffert, M.D.*

I hope you find the articles in this digest to be useful. I have written a brief summary of the current disciplinary statistics, with special attention to a declining backlog of cases, along with an outline of the investigatory process involved. The second article is a reminder to physicians of Wisconsin law regarding release of Medical Records to patients. Lastly, we included the results of a state survey of Registered Nurses. The results provide Wisconsin data that explain and illustrate the current nursing shortage. As you know, the shortage is predicted to get worse, potentially impacting a variety of practice settings. This crisis in healthcare is receiving extensive media coverage.

Discipline: Facts and Statistics

The Medical Examining Board (MEB) has separate legal responsibility and authority mandated to it in the Wisconsin Statutes. However, it operates within the Department of Regulation and Licensing (DRL) for administrative and support purposes, along with 39 other licensing or credentialing boards. These boards also depend on the Department for investigation and enforcement services and legal counsel.

For the year 2001, the DRL received 2106 complaints for all professions. Of that number, the MEB received 328 complaints, 15% of the total. For the MEB in 2001,

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231 cases were not opened at screening, leaving a total of 97 *new* cases opened for investigation after screening. During the year, 85 cases (consisting of some of those new cases and other *pending* cases) were closed after investigation/legal action, with findings of no violation or other recommendations (see below for examples). Thirty-eight cases resulted in formal disciplinary action. Thus, a total of 97 new cases were opened and 123 new or pending cases were resolved, resulting in a net *decrease* of open cases overall.

The Medical Examining Board has been making a concerted effort to shorten the processing time for patient complaints and further decrease the number of open cases. This effort has been successful. From a high of as many as 600 open cases in the 1980's to 380 open cases as recently as 1997. That number has been reduced to only 122 open cases at the present time. Of these 122 cases, 43 are still open due to legal procedures that are beyond the control of the MEB, 16 cases are in hearing, and 63 are under active investigation.

Discipline: The Screening Process

Prompt reply to letters of inquiry about a complaint that has been filed allows the Board to proceed more swiftly in bringing each complaint to a considered conclusion. This is important and fair to both the complainant and the physician and/or facility against whom the complaint has been lodged. Most physicians do respond with records and other written materials in a timely fashion. This cooperation enables the MEB to continue to shorten the time needed to comprehensively and fairly process complaints from filing to resolution. The MEB is presently promulgating a rule that would define failure to respond to such requests in a timely manner (30 days) as "unprofessional conduct."

An important part of speeding up the response time from receipt of the complaint to its conclusion is the so-called "10 day letter". When a complaint is received by the MEB, the DRL staff send out a letter to the appropriate facility indicating a complaint has been filed and asking that related records be sent to the Department within 10 days. A similar letter is sent to the physician licensee, asking for a response to the complaint, also within 10 days. When responses are received, the complaint is then sent to a screening committee which consists of both professional and public

members of the MEB and representatives of the Division of Enforcement. The screening committee can, based on the information received, decide to open a case, not open a case, or seek additional information. If the case is opened, it is sent to an investigator, attorney and case advisor--the latter being a member of the MEB. After investigation, which may include other expert opinion in particularly complex cases, the full Board decides on a course of action for the complaint at one of its regular monthly meetings. That action can include:

- Closing the case after investigation due to a decision that there was no violation.
- Proceeding with a further action that might include an administrative warning, further education/training for the licensee, or enrollment in an impaired physician program.
- Formal disciplinary action, such as a reprimand or action up to and including suspension or revocation.

The MEB remains committed to resolving complaints as expeditiously as possible. At the same time, we are committed to act as carefully, thoughtfully and fairly as possible, always remaining within the legal parameters necessary to ensure the consideration and rights of both the complainant and the physician.

Wisconsin Patient Health Care Records Law

The Board receives a significant number of complaints from patients who have been unsuccessful in obtaining medical records from their treating physicians. The law in Wisconsin is quite clear in establishing a patient's right to inspect and receive copies of his or her medical records. This is conditioned only on submission of a written informed consent statement and payment of reasonable copying costs. Section 146.83 of the Wisconsin Statutes provides as follows:

146.83 Access to patient health care records. (1) Except as provided in s. 51.30 or 146.82 (2), any patient or other person may, upon submitting a statement of informed consent:

(a) Inspect the health care records of a health care provider pertaining to that patient at any time during regular business hours, upon reasonable notice.

(b) Receive a copy of the patient's health care records upon payment of reasonable costs.

(c) Receive a copy of the health care provider's x-ray reports or have the x-rays referred to another health care provider of the patient's choice upon payment of reasonable costs.

Section 146.81(1), Stats., defines "health care provider" to include physicians; Sec. 146.81(4), Stats., defines "patient health care record as, "all records related to the health of a patient prepared by or under the supervision of a health care provider;" and "patient" is defined at 146.81(3), Stats., as "a person who receives health care services from a health care provider."

It is well established under this statute that the following would violate the law:

- Refusal to provide copies of the record because the patient owes a fee.
- Failure or refusal to provide a record because the physician-patient relationship has terminated, regardless of the circumstances of the termination.
- Denial of a disclosure request by one parent of a minor patient because disclosure is opposed by the other parent (unless the requesting parent's parental rights have been legally terminated).

Registered Nurse Workforce Survey

The findings of the first Web-based survey of registered nurses (RNs) in Wisconsin were announced in May. The survey was conducted through the Department of Workforce Development, in cooperation with the Department of Regulation and Licensing and other entities. The purpose of the survey was to help the state understand and respond to emerging shortages of nurses in the health care system.

Approximately 63% of registered nurses responded to the survey, which addresses topics such as the hours worked by RNs, the reasons nurses are leaving the workforce, the aging health care services workforce and the education of registered nurses.

Statistics from the Department of Regulation and Licensing indicate the overall number of registered nurses in the state is growing, increasing from 58,625 in 1993 to 68,594 in 2001, but the demand for nurses has outpaced

growth. The survey showed that 82% of Wisconsin's licensed RNs are working in nursing positions in the state.

Key findings in the survey:

Aging of the nursing workforce:

- The average age of registered nurses practicing in Wisconsin is 44.7 years. This is older than the average age for employed RNs nationally (43.3 years in 2000) and reflects the national trend of an aging workforce in nursing.
- The proportion of RNs age 50 and older in various work settings was 54% in nursing education, 44% in nursing homes, 40% in public/community health, 32% in outpatient clinics and 26% in hospitals.
- The issue of an aging workforce is particularly relevant in nursing education, since more than half of Wisconsin's nurse educators are age 50 or older. As nurse educators reach their 50s and 60s, their approaching retirement has serious implications for the capacity of Wisconsin's educational system to increase the supply of RNs in the state.

Overtime in the nursing workforce:

- Of all registered nurses working in nursing positions in Wisconsin, 43% (an estimated 24,406) worked overtime in the past month.
- Of these RNs who worked overtime in the past month, 61% (an estimated 14,990) were paid for their overtime.
- Of the RNs who worked and were paid for overtime in the past month, 77% reported that their employer asked them and they agreed to work overtime. Paid overtime was more often requested and agreed to (rather than assigned) in all primary work settings, including hospitals, nursing homes, public health, clinics and nursing education.

Plans to reduce work hours in next year:

- 13% of registered nurses practicing in Wisconsin (an estimated 7,684) planned to reduce their work hours in the next 12 months.
- Job stress was mentioned most frequently as the primary reason for planning to reduce work hours, reported by 34% of the RNs who planned to reduce hours. By age, the most frequently reported primary reasons for planning to reduce work hours were family obligations for RNs under age 40, job

stress for RNs age 40 to 59, and retirement or semi-retirement for RNs age 60 and older.

Plans to leave nursing practice:

- 3% of registered nurses practicing in Wisconsin (an estimated 1,781) planned to leave nursing practice in the next 12 months.
- Among these RNs, the most frequent primary reasons reported were retirement and job stress.

Retention at primary work setting:

- Among RNs practicing in Wisconsin, 38% (an estimated 21,349) have been at their primary work setting for more than 10 years, and 27% (an estimated 15,492) have been there less than three years.
- Longer-term retention of RN's was highest in hospitals and nursing education settings. 47% of RNs working in hospitals, and 39% of RNs working in nursing education settings, had worked at the same site more than 10 years.
- Work settings with the highest percentage of registered nurses who had worked at the site less than three years were outpatient clinics (33%), nursing homes (32%), and public/community health settings (30%).

Additional information on the 2001 Wisconsin Registered Nurse Workforce Survey is available in *Health Counts in Wisconsin: Registered Nurse Workforce Data 2001*, on the DHFS Web site at:
<http://www.dhfs.state.wi.us/provider/nurses.htm>

www.drl.state.wi.us

Did you know that these digests, along with many other informational materials, are on the Department's Web site? Monthly press releases of disciplinary actions and complete disciplinary orders for each case are also posted on the web site. In addition, you can check on the status of a pending application or a credential holder's record. You can also e-mail an address change, question, or suggestion via the web site. Future goals for the Department will be to post applications for downloading and provide on-line renewal of credentials. If you haven't looked at the web site lately, check it out for insights and answers to a variety of questions.

DISCIPLINARY ACTIONS

**JUAN FERNANDEZ III, MD
WAUSAU WI**

LIMITED

Was negligent in the care he rendered to a patient. Did not properly diagnose and treat the patient's condition. Misdirected the focus of her therapy. Negligently used hypnosis and failed to recognize the problems of using hypnosis. Misdiagnosed the patient with multiple personality disorder. Implanted false memories. Negligently handled the transference and countertransference phenomenon existing in his therapeutic relationship with the patient. Shall not evaluate or treat any person diagnosed with having a dissociative disorder. May prescribe, monitor and manage medications for those persons whose disorders are being treated by other practitioners. Effective 9/20/2001. Sec. 448.02(3)(c), Stats. Case #LS0109202MED

**FRANK H. HOLLARDO, MD
HUDSON WI**

SURRENDER

While treating patients who desired to lose weight did not regularly monitor electrolytes or thyroid functioning and continued to treat when the patients were not gaining or losing weight. Patients' charts are largely illegible and reflect inadequate physical examinations. Pay costs of \$1100.00. Effective 9/20/2001. Med 10.02(2)(h) Case #LS0109204MED

**MATTHEW R DICKER, MD
MILWAUKEE WI**

REPRIMAND

In July, 1998 found guilty of misdemeanor possession of fentanyl citrate and placed on probation. Entered a treatment program pursuant to the federal probation. Upon request by the board, shall submit samples of his blood, urine, breath, or hair for analysis. Pay costs: \$900.00. Effective 9/20/2001. Med 10.02(2)(r) Case #LS0109201MED

**SCOTT W WARWICK, MD
WATERTOWN SD**

LIMITED

In late 1998, began diverting Fentanyl from his hospital supply for personal use. Continued through July of 1999 when a nurse discovered the illegal drug diversion. His license was revoked in South Dakota and California. His license has been reinstated in South Dakota subject to a five-year stay of suspension with conditions. His Wisconsin license is limited in that he shall not engage in the practice of medicine in any capacity unless he is in full compliance with the rehabilitation and treatment programs specified in this order. Pay costs: \$100.00. Effective 9/20/2001. Sec. 448.02(3),

Stats. Med 10.02(2)(p),(q) Case
#LS0109203MED

SATYAKI R SAIKIA, MD

WEST ALLIS WI

REVOKED

Engaged in inappropriate sexual contact during pelvic examinations. Charged in Milwaukee County Circuit Court with one count of second degree sexual assault by use of force, a class BC felony. Effective 10/17/2001. Wis. Stat. ss. 940.225(2)(a), (3). Wis. Admin. Code Med 10.02(2)(z) Case #LS0109211MED

ALLAN B LEVIN, MD

MADISON WI

REPRIMAND/LIMITED

Provided medico-consulting services with a number of other physicians. The physicians were required to report and share the income with the other physicians, which he did not do. Double-billed some patients which is contrary to Medicaid and Medicare rules. Limited for one year. Provide no few than 160 hours of uncompensated community service. Pay costs: \$1,100.00. Effective 11/14/2001. Sec. Med 10.02 (2) (m), Wis. Admin. Code. Case #LS0111143MED.

DEBRA A. ZWIER, MD

RENO NV

LIMITED

On 3/2/99 the Montana board revoked her license for patient neglect and falsification of records. Her license is now reinstated and placed on probation status. She cannot work in Wisconsin until she submits proof to the Wisconsin board that she has fulfilled the conditions of Montana's order. Effective 11/14/2001. Sec. Med 10.02 (2) (q), Wis. Admin. Code. Case #LS0111145MED

MAMMOUD N MUSA, MD

LAUMEE OH

REVOKED

Revoked based on license revocations in Illinois, Ohio and Michigan. Discipline in Illinois was the result of an overcharge to the Illinois department while a participant in the Illinois Medical Assistance Program. The factual basis for the other revocations was the disciplinary action taken in Illinois. Pay costs: \$965.24. Effective 3/20/2002. Sec. Med 10.02 (2) (a), Wis. Admin. Code. Case #LS0201231MED

PABLO PEDRAZA, MD

MILWAUKEE WI

REPRIMAND/LIMITED

Inadvertently pierced a patient's aorta and left lung. Did not immediately recognize the error. The patient went into cardiac and pulmonary arrest and died. May not perform cardiac or thoracic surgery and may not undertake, assist, or attend the placement of any cardiac stent,

coil, pacemaker or implanted defibrillator, or any cardiac catheterization or angioplasty, or any other invasive cardiology procedure. Pay costs: \$1,312.00. Effective 3/20/02. Sec. Med 10.02 (22) (h), Wis. Admin. Code. Case #LS0203202MED

R MICHAEL HANNON, MD

COLUMBIA FALLS WI

SURRENDER

Disciplined by the Alaska board for his unlicensed practice and alleged sexual misconduct with a patient. Surrendered his Alaska license. May not petition the board for relicensure for at least two years. Effective 11/14/2001. Sec. 440.02 (3), Wis. Stats. Sec. Med 10.02 (2) (q), Wis. Admin. Code. Case #LS0111142MED

NEIL P CONNOR, MD

OREGON WI

REPRIMAND

Failed to properly manage a patient's fluids and electrolytes leading to respiratory insufficiency due to fluid overload and mismanaged an attempted intubation resulting in cardiopulmonary arrest, hypoxia, and brain damage. Complete continuing medical education. Effective 1/29/2002. Sec. 448.02 (3), Wis. Stats. Med 10.02 (2) (h), Wis. Admin. Code. Case #LS0201291MED

MARK M BENSON, MD

NEW BERLIN WI

REPRIMAND/LIMITED

Convicted in Waukesha County Circuit Court of attempting to obtain a prescription drug by fraud. Took a prescription blank from another physician and issued a false prescription order. Also telephoned a prescription order to a pharmacy using another physician's name. Complete an educational intervention program. Pay costs: \$400.00. Effective 11/14/2001. Sec. 448.02 (3), Wis. Stats. Sec. Med 10.02 (2)(a),(b),(h)(m),(p), Wis. Admin. Code. Case #LS0111141MED

DOUGLAS OWEN COREY, MD

STEVENS POINT WI

SUSPENDED

In February, 2000, he was required to provide proof that he had taken and satisfactorily completed a two-day education program. He has not yet provided proof that he does not suffer from any psychiatric or psychological condition that would interfere with his ability to practice. His license is suspended until he has a complete evaluation. Effective 3/20/2002. Sec. Med 10.02 (2)(i), Wis. Admin. Code. Case #LS0112211MED

**Wisconsin Department of
Regulation and Licensing**
Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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To contact the Department, just dial (608) 266-2112, then enter the Quick Key numbers below for the assistance you need:

To request a MEDICAL application packet:	press 1-1-2
To check the status of a pending application:	press 1 - 2
To discuss application questions:	press 1 - 3
To discuss temporary license questions:	press 1 - 3
To renew or reinstate a permanent license:	press 1 - 4
To renew or reinstate a permanent license:	press 2 - 1
To renew a temporary license:	press 2 - 2
To obtain proof of licensure to another state:	press 3 - 1
To find out if a person is licensed:	press 3 - 2
To file a complaint on a license holder:	press 8
To check the status of complaints:	press 8
For all other licensing questions:	press 1 - 3

VERIFICATIONS

Verifications are now available online at www.drl.state.wi.us. On the Department Web site, please click on "License Lookup". If you do not use the online system, all requests for verification of licenses/credentials must be submitted in writing. There is no charge for this service. Requests should be sent to the Department address or may be faxed to (608) 261-7083 - ATTENTION: VERIFICATIONS. Requests for endorsements to other states must be made in writing - please include \$10 payable to the Department.

2002 MEDICAL BOARD MEETINGS:

June 19, July 24, August 21,
September 25, October 23,
November 20, December 18.

**Meetings are held at DRL & begin at 8:00 a.m.
The public is welcome.**

DID YOU KNOW THAT YOU CAN ACCESS MOST INFORMATION ON THE DEPARTMENT OF REGULATION & LICENSING WEB SITE?

Visit the Department's Web site at

www.drl.state.wi.us

Send comments to: web@drl.state.wi.us

CHANGE OF NAME OR ADDRESS?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided. **WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

WISCONSIN STATUTES AND CODE

Copies of the Wisconsin Statutes and Administrative Code relating to the Practice of Medicine and Surgery can be ordered through the Board Office. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition of the Code Book is dated March 2002.